

Notice of Allowability

Application No.

10/624,714

Applicant(s)

KEIM ET AL.

Examiner

Art Unit

Rodney P. Swartz, Ph.D.

1645

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 23December2004.
2. ☒ The allowed claim(s) is/are 6-9.
3. ☒ The drawings filed on 10January2004 are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some* c) ☐ None of the:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
- (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
- 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
- (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- | | |
|---|--|
| 1. <input type="checkbox"/> Notice of References Cited (PTO-892) | 5. <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 6. <input type="checkbox"/> Interview Summary (PTO-413),
Paper No./Mail Date _____. |
| 3. <input type="checkbox"/> Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date _____ | 7. <input type="checkbox"/> Examiner's Amendment/Comment |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit
of Biological Material | 8. <input type="checkbox"/> Examiner's Statement of Reasons for Allowance |
| | 9. <input type="checkbox"/> Other _____. |

DETAILED ACTION

1. Applicants' Response to Office Action, received 23December2004, is acknowledged.

Claim 7 has been amended. Claims 1-5 and 10-17 have been canceled.

2. Claims 6-9 are pending and under consideration.

Rejections/Objections Withdrawn/Moot

3. The objection to claim 5 is moot in light of the cancelation of the claim.

4. The objection to claim 1 is moot in light of the cancelation of the claim.

5. The rejection of claims 1-3 and 5 under 35 U.S.C. 102(b) as being anticipated by Eisenberg et al (WO01/35317, published 17May2001) is moot in light of the cancelation of the claims.

6. The rejection of claims 1-3 and 5 under 35 U.S.C. 102(b) as being anticipated by Gicquel et al (WO99/09186, published 25February1999) is moot in light of the cancelation of the claims.

7. The rejection of claims 1-3 and 5 under 35 U.S.C. 102(b) as being anticipated by Williams et al (WO01/02568, published 11January2001) is moot in light of the cancelation of the claims.

8. The rejection of claims 1-3 and 5 under 35 U.S.C. 102(b) as being anticipated by Menozzi et al (WO97/44463, published 27November1997) is moot in light of the cancelation of the claims.

9. The rejection of claims 1-5 under 35 U.S.C. 102(e) as being anticipated by Fleischmann et al (U.S. Pat. No. 6,294,328, 25September2001) is moot in light of the cancelation of the claims.

10. The rejection of claims 1-5 under 35 U.S.C. 102(b) as being anticipated by Nano et al (U.S. Pat. No. 6,28,371, 8May2001) is moot in light of the cancelation of the claims.

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11. The rejection of claim 10 under 35 U.S.C. 112, second paragraph, indefiniteness, is moot in light of the cancelation of the claim.

12. The rejection of claims 7-9 under 35 U.S.C. 112, second paragraph, indefiniteness, is withdrawn in light of the amendment of claim 7.

Conclusion

13. Claims 6-9 are allowed.

14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Rodney P. Swartz, Ph.D., Art Unit 1645, whose telephone number is (571) 272-0865. The examiner can normally be reached on Monday through Thursday from 5:30 AM to 4:00 PM EST.

If attempts to reach the Examiner by telephone are unsuccessful, the examiner's supervisor, Lynette F. Smith, can be reached on (571)272-0864.

The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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RODNEY P SWARTZ, PH.D
PRIMARY EXAMINER
Art Unit 1645

April 6, 2005